

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension or Revocation of)	NO. CR 2012-01418
the License to Conduct Gambling Activities of:)	<i>NO. CR 2013-00200</i>
)	
)	SECOND AMENDED
)	NOTICE OF ADMINISTRATIVE
Seafarer's Sports Bar)	CHARGES AND OPPORTUNITY
Tacoma, Washington,)	FOR AN ADJUDICATIVE
)	PROCEEDING
Licensee.)	<i>(Amendments appear in italics</i>
_____)	<i>and strikeouts)</i>

I.

The Washington State Gambling Commission issued Seafarer's Sports Bar, organization number 00-17079, the following license:

- Number 05-09382, authorizing Class "A" Punchboard Pull-Tab activity.

The license expires on December 31, ~~2012~~ 2013, and was issued subject to the licensee's compliance with state gambling laws and regulations.

II.

David Trujillo, Rick Day, Interim Director of the Washington State Gambling Commission, charges the licensee with the following violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

SUMMARY:

Seafarer's Sports Bar failed to submit its Quarterly Activity Reports for *all the first and second* quarters of 2012. *Additionally, Seafarer's Sports Bar ownership underwent a 100% change in early 2012, which was unreported. Seafarer's Sports Bar has operated without a valid license since the ownership change.*

FACTS:

Case Report 2012-01418

1) On August 13, 2012, a Washington State Gambling Commission Special Agent (agent) issued a Notice of Violation and Settlement (NOVAS)¹ to the Seafarer's Sports Bar for not submitting a Quarterly Activity Report (QAR) by July 30, 2012.

¹ A NOVAS identifies the violation, and in this case, gives the recipient the opportunity to pay a fine and submit its delinquent report to settle the matter.

- 2) On September 28, 2012, the agent called James Grimsety, ~~manager~~ of Seafarer's Sports Bar, and asked him if he had sent the NOVAS payment. Mr. Grimsety said he would send it in.
- 3) ~~On October 22, 2012, a payment for the NOVAS was received by Commission staff;~~
~~however, the QAR was not received. As of March 19, 2012, a payment for the NOVAS and the QAR was not been received by Commission staff.~~
- 4) Previously, Commission staff issued a letter to the licensee on February 10, 2011, as a result of its failure to timely submit its QAR for the third and fourth quarters of 2010.

Case Report 2013-00220

- 5) On January 4, 2013, a Commission Financial Investigations Special Agent (agent) was assigned to follow-up on questions regarding a possible undisclosed ownership change, as well as the licensee's repeated failure to submit required information to Commission staff.
- 6) Seafarers continuously held a Punchboard/Pull-Tab license from November 26, 1997, until their license expired on December 31, 2012. The license was ultimately renewed on January 31, 2013.
- 7) The ownership of My Suzie's, Inc., d/b/a Seafarer's, has been reported to Commission staff since their initial licensure as follows:
 - Richard Jones, President, 0% ownership
 - Robert Jones (son), stockholder, 100% ownership
- 8) On November 16, 2011, Commission staff received a Commercial Stimulant Business Application from Triskelion, LLC, d/b/a Seafarer's. The ownership of Triskelion, LLC listed James Grimsey as 100% shareholder and LLC Manager.
- 9) As part of the application process, Mr. Grimsey submitted a Business Opportunity Purchase & Sale Agreement where Triskelion, LLC purchased the business assets of My Suzie's, Inc., d/b/a Seafarer's Sports Bar, for a total of \$70,000. The details of the transaction included a \$40,000 down payment, followed by monthly payments of \$579.99 until the remaining balance was paid. This agreement was signed by both Mr. Grimsey and Mr. Jones on November 15, 2011.
- 10) On January 3, 2012, Mr. Grimsey submitted a request to withdrawal his application for Triskelion, LLC. His request was granted, and his license application fees were refunded.
- 11) On January 3, 2012, an Annual Renewal Application for Commercial Business was received from My Suzie's, Inc. for their Seafarer's Sports Bar's license. This application was signed by Richard Jones on December 30, 2011. The application was ultimately approved, and a renewed license was issued to My Suzie's, Inc., d/b/a/ Seafarer's Sports Bar with an expiration date of December 31, 2012.
- 12) During the investigation concerning Seafarer's Activity Reports for the first and second quarters of 2012, Mr. Grimsey represented himself as the "manager."

13) On January 4, 2013, a telephone conference call was held between Mr. Grimsey, a Commission Research Analyst, and the agent. Mr. Grimsey was informed that the missing QARs needed to be submitted immediately, as well as payment for the NOVAS. Mr. Grimsey acknowledged this information and stated that he would take care of both problems immediately.

14) Mr. Grimsey was also informed that Seafarer's Sports Bar's license expired on December 31, 2012, and the business was currently operating without a valid license. Mr. Grimsey agreed to take down all pull-tab games in operation until the license was properly renewed. During the conversation, the agent asked Mr. Grimsey if he was the owner of Seafarer's Sports Bar. Mr. Grimsey denied being an owner and identified himself as the "manager." He identified Richard Jones as the owner. Mr. Grimsey stated that Mr. Jones was in poor health and rarely was on-site.

15) On January 9, 2013, Mr. Grimsey sent an e-mail stating that a check for the renewal application was coming and that all games had been pulled from play. Mr. Grimsey also stated that the QARs were being completed by the accountant.

16) On January 18, 2013, the agent spoke with Richard Jones, President of My Suzie's, Inc. During this conversation, Mr. Jones stated that Mr. Grimsey purchased the business assets of Seafarer's Sports Bar from him in early 2012 for \$70,000. Mr. Grimsey paid him "a large down payment" and has made monthly payments of approximately \$530 since that time on the remaining balance. These transaction details are the similar to those detailed in the Business Opportunity Purchase & Sale Agreement between My Suzie's, Inc. and Triskelion, LLC in 2011.

17) On January 18, 2013, the agent spoke with Mr. Grimsey. During this conversation, Mr. Grimsey admitted to paying Mr. Jones the down payment and the monthly payments since early 2012. However, he claimed he was not the owner, in his opinion. Mr. Grimsey stated that he and Mr. Jones have a signed an "operating agreement," which would allow Mr. Grimsey to "walk away from the business at any time." If that occurred, Mr. Jones would repay all funds and take control of the business again.

18) On January 22, 2013, agents spoke to Mr. Grimsey on-site at Seafarer's Sports Bar. The agents confirmed that all pull-tab games had been removed from play and spoke with him regarding his current violations. Mr. Grimsey stated that he expected his accountant to have the missing QARs completed and submitted by January 25, 2013.

19) As of March 19, 2013, the QARs had not been received. The agent informed Mr. Grimsey that since the business transaction occurred between Triskelion, LLC and My Suzie's, Inc., a renewal application was no longer appropriate. The agent informed him that a 100% ownership change voids a license, and he was required to submit a new application. The agent informed Mr. Grimsey that he had been operating without a valid license for one year. Mr. Grimsey then again mentioned the language in the operating agreement. He remained adamant that Mr. Jones was still the owner. The agent requested a copy of the operating agreement. Mr. Grimsey indicated that he did not have a copy on premises. The agent requested that he e-mail a copy of the agreement, the following morning. Mr. Grimsey agreed. The agent also informed Mr. Grimsey not to submit any license renewal paperwork until the agreement could be reviewed. On

January 31, 2013, a renewal application was received from My Suzie's, Inc. for Seafarer's Sports Bar, and the license was renewed that day. The renewal application lists Mr. Jones as the President and Mr. Grimsey as the manager.

20) *On March 4, 2013, the agent spoke with Mr. Grimsey. The agent asked him why the renewal was submitted after he was specifically instructed not to submit any applications until the operating agreement could be reviewed by commission staff. Mr. Grimsey apologized and stated that he did not recall those being the instructions. The agent instructed Mr. Grimsey to immediately submit a complete copy of the agreement, which was received later that day.*

21) *The agreement, entitled "Management Agreement," states the following pertinent information:*

- *The agreement was signed by Mr. Jones and Mr. Grimsey on January 13, 2012;*
- *Mr. Grimsey is listed as "Manager" of Seafarer's Sports Bar;*
- *Mr. Jones is listed as "Owner" of Seafarer's Sports Bar;*

The agreement states that Mr. Grimsey shall:

- *Be the sole and exclusive managing agent of the business;*
- *Function as an independent contractor;*
- *Use best efforts to continue operations of the business;*
- *Have sole authority over day-to-day staff, menu, food preparation and normal duties arising from the operations of the business;*
- *Pay, from the business proceeds, the costs of employing all employees, including but not limited to all wages, salaries, social security and similar taxes and employee benefits;*
- *Manage, in connection with the operation, maintain or repair the business, and at all times shall comply with all applicable laws; and*
- *During the term of the agreement, be entitled to retain all receipts of the business.*

22) *The QAR for the 3rd and 4th quarters 2012 was due from Seafarer's Sports Bar on January 30, 2013. As of March 19, 2013, it had not been received.*

VIOLATIONS:

1) RCW 9.46.075 Denying, suspending, or revoking a license or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein: (The following subsection applies.)

(1) Violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(7) *Makes a misrepresentation of, or fails to disclose, a material fact to the commission.*

2) WAC 230-03-085 Denying, suspending, or revoking a license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level; or

(7) Fails to provide us with any information required under Commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us.

3) WAC 230-06-108 Ownership changes — Prohibited.

All gambling licenses held by a business will become void when the following changes in ownership occur and a new license must be obtained before operating any gambling activities:

(The following subsection applies.)

(2) *The business is sold; or*

4) WAC 230-14-284 Activity reports for punchboard and pull-tab licensees

Punchboards and pull-tab licensees must submit an activity report to the Commission. Licensees must complete the report in the format we require and must:

(The following subsections apply.)

(1) Cover the periods: (a) January 1 through June 30; and (b) July 1 through December 31; and

(2) Be received at our administrative office or postmarked no later than thirty days following the end of the reporting period.

Seafarer's Sport Bar's repeated failure to submit its activity reports is in violation of WAC 230-14-284 and demonstrates the licensee's willful disregard for complying with state administrative rules. *Furthermore, Mr. Grimsey purchased business assets of Seafarer's Sports Bar, failed to notify Commission staff of this change, and operated with an invalid license. This was a 100% ownership change, in violation of WAC 230-06-108.* Therefore, grounds exist for the suspension or revocation of Seafarer's Sports Bar's license to conduct gambling activities, based on RCW 9.46.075(1), and (7) and WAC 230-03-085(1), (3) and (7).

\\

III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

The licensee will have the opportunity to have a hearing on the alleged violations.

In order to have a hearing or discuss settlement options, the enclosed request for hearing must be completed and returned to the Gambling Commission **within 23 days** from the date of the mailing of this notice.

Based on RCW 34.05.440, failure to return a request for hearing will result in the entry of a default order REVOKING YOUR LICENSE.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

David Trujillo, being duly sworn on oath, says: That he has read this *Amended* Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents of it, believes it to be true, that he is the Interim Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

David Trujillo
DAVID TRUJILLO, INTERIM DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 8 day of April, 2013.

Maureen Pretell
NOTARY PUBLIC in and for the State of
Washington residing at Thurston County
My commission expires on December 2, 2015

STATE OF WASHINGTON)
)
COUNTY OF THURSTON)

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, property addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 8 day of April, 2013

Maureen Pretell

